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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on minority issues, Rita Izsák

Addendum

Mission to Ukraine* **

Summary

The overwhelming majority of the minority and other representatives consulted by the Special Rapporteur on minority issues during her visit to Ukraine described a history of harmonious inter-ethnic and inter-faith relations and a legislative, policy and social environment that was generally conducive to the protection of their rights, including cultural and linguistic rights. Nevertheless, minority issues have become highly politicized as the situation of political and social unrest has emerged in some regions since February 2014. That threatens to create and widen fractures along national, ethnic and linguistic lines and undermine peaceful coexistence if not quickly resolved. An end to violence and constructive consultations on minority rights must be primary objectives for all stakeholders.

The overall human rights and minority rights situation and the civil and political, economic, social and cultural conditions experienced by minorities cannot justify any violent action or incitement and support of such action by any party, national or international. While there are challenges relating to minority issues, some radical elements are intent on promoting and inciting disunity. It is essential to establish a process of national and regional dialogue with the objective of understanding the concerns and issues of all minority communities and ensuring that they are addressed appropriately and rapidly

* The summary of the present report is being issued in all official languages. The report itself, contained in the annex to the summary, is being issued in the language of submission and Russian only.

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through democratic mechanisms and not through recourse to force or coercion. Moderate voices must come to the fore. First and foremost, solutions to the current situation must come from the citizens of Ukraine themselves.

A historical good governance deficit and widespread corruption have contributed to a lack of trust in political institutions and actors and have significantly contributed to instability. Measures are required to reinforce the minority rights infrastructure and to build confidence that minority rights will be protected in law and in practice. Such measures should include strengthening of legal protection, enhancing institutional attention to minority issues, and instituting stronger and permanent consultation mechanisms. All measures should be adequately funded and politically supported.

Annex

[English and Russian only]

Report of the Special Rapporteur on minority issues on her mission to Ukraine (7–14 April 2014)

Contents

		Paragraphs	*Page*
I.	Introduction	1–3	4
II.	Methodology	4–7	4
III.	Minority rights: legal and institutional framework	8–18	5
IV.	Minority rights in the context of political and social unrest in 2014	19–28	8
V.	Issues of minority identity in Ukraine	29–34	10
VI.	Language and cultural rights of minorities	35–43	11
VII.	Situation of internally displaced persons and Crimean Tatars	44–56	13
VIII.	Situation of religious minorities	57–62	16
IX.	Situation of the Roma	63–67	17
X.	Conclusions and recommendations	68–97	18

I. Introduction

1. The Special Rapporteur on minority issues, Rita Izsák, conducted an official visit to Ukraine between 7 and 14 April 2014, at the invitation of the Government. She visited Donetsk, Kyiv, Odesa and Uzhgorod. She consulted widely with hundreds of stakeholders, including senior government officials from the Ministry of Foreign Affairs and the Ministry of Culture, representatives of civil society and minority communities, religious leaders, political actors, academics, journalists and internally displaced persons (IDPs), the diplomatic community, United Nations bodies and other national and international actors. She thanks the Government and all of those who consulted with her and provided information.

2. Key objectives of her visit were to hear the voices of minorities and to understand their issues and concerns, both long-standing and current. The Special Rapporteur met representatives of communities including those who identified as ethnic Armenians, Azerbaijanis, Bulgarians, Crimean Tatars, Gagauzis, Germans, Greeks, Hungarians, Moldovans, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Vietnamese and members of Jewish communities. She also met ethnic Ukrainians to learn about their situation as de facto minorities in some localities including the Autonomous Republic of Crimea.

3. The most recent census was conducted in 2001. The main minority groups recorded include Russians 8,334,100 (17.3 per cent), Belarusians 275,800 (0.6 per cent), Moldovans 258,600 (0.5 per cent), Crimean Tatars 248,200 (0.5 per cent) and Bulgarians 204,600 (0.4 per cent). There are smaller populations of Armenians, Hungarians, Jews, Poles, Romanians and other nationalities.

II. Methodology

4. The Special Rapporteur's evaluation is based on the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other relevant international standards, from which she has identified four broad areas of global concern: (a) the protection of a minority's survival by combating violence against it and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups, and their right to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and to equality, including ending structural or systemic discrimination and the promotion of affirmative action, when required; and (d) the right to the effective participation of minorities in public life and in decisions that affect them.

5. The Special Rapporteur focuses her work on minority groups whose generally non-dominant situations require measures to allow them to exercise all their rights, including minority rights, to the fullest. Apart from the national dimensions, minority issues have regional and local dimensions. A group that may constitute a dominant majority or a significant proportion of the population nationally or in a particular region may be numerically smaller and non-dominant in another region. Minority rights protection must also be applied fully for those who find themselves in the situation of being de facto minorities in the localities in which they live.

6. In view of the current political situation in the Autonomous Republic of Crimea and eastern Ukraine, the Special Rapporteur notes that ethnic Ukrainians may constitute de facto minorities in some regions where they live. Some communities, notably Crimean Tatars, self-identify as indigenous peoples. Their engagement with her mandate on minority

issues in no way undermines or is incompatible with their claims to indigenous status and to enjoy the rights contained in the United Nations Declaration on the Rights of Indigenous Peoples.

7. In its resolution 68/262 of 27 March 2014, the General Assembly upheld the territorial integrity of Ukraine and underscored that the referendum held in the Autonomous Republic of Crimea on 16 March 2014 had no legal validity. The visit and findings of the Special Rapporteur are in full conformity with resolution 68/262 regarding recognition of the continuing status of the Autonomous Republic of Crimea as the territory of Ukraine under international law. The present report does not provide a comprehensive analysis or chronology of events resulting in political and social unrest and conflict in 2014, but summarizes developments relevant to minority issues. The report includes references to events after the Special Rapporteur's visit and has benefited from the reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR)[1] and others.

III. Minority rights: legal and institutional framework

8. Ukraine is a party to several of the international human rights instruments that are most relevant to minority rights, including: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. Article 9 of the Constitution of Ukraine provides that ratified international treaties are part of the national legislation. Ukraine is a member of the Council of Europe, and has been a State party to the Convention for the Protection of Human Rights and Fundamental Freedoms since 1997. It has signed and ratified the major European multilateral treaties for the protection of national minorities: the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages, and falls under their monitoring procedures.

9. The Constitution of Ukraine[2] (art. 11) requires that the State "promotes the consolidation and development of the Ukrainian nation, of its historical consciousness, traditions and culture, and also the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities". The right to equality and non-discrimination is enshrined under article 24, which prohibits "privileges or restrictions based on race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic and other characteristics".

10. Article 10 establishes that the State language is Ukrainian but that "the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is guaranteed". Article 53 recognizes the right to native-instruction: "Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in State and communal educational establishments and through national cultural societies".

11. On 25 June 1992, Law 2494–XII on National Minorities[3] was adopted. It defines national minorities as citizens who are not ethnic Ukrainian but hold feelings of a national identification and affinity among themselves (art. 3). It established a consultative body, the Council of Representatives for Public Associations of National Minorities, within the

[1] Available from www.ohchr.org/en/countries/ENACARegion/Pages/UAIndex.aspx.

[2] English version provided by Ukraine to the Venice Commission, available from www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2014)012-e.

[3] Available from http://zakon2.rada.gov.ua/laws/anot/en/2494-12.

former Ministry for Nationalities (art. 5). It guarantees cultural rights including, inter alia, native-language instruction in State educational institutions, the celebration of national holidays, the right to freedom of religion, and protection of historical and cultural heritage (art. 6). Minority languages may also be used, alongside Ukrainian, in workplaces where the majority of the population belongs to a minority (art. 8). The right to political participation at all levels is guaranteed (art. 9). A specific State budget is established to support "the development of national minorities" (art. 16). Article 19 provides that in case of conflict between that norm and international law, the latter has primacy.

12. Since the Law on National Minorities was adopted, the institutional framework of national minorities has undergone numerous changes and the Ministry for Nationalities has been abolished. In 2010, Presidential decree No. 1085/2010 disbanded the State Committee on Nationalities and Religions, which was the main body in charge of minority issues, following institutional reform, and its competencies were assumed by the Ministry of Culture. At the time of the Special Rapporteur's visit, the Department of Organizations and National Minorities had primary responsibility for minority issues within the Ministry of Culture and had only six staff members.

13. In 2013, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities stated that the Law on National Minorities was "outdated", "too vague in its provisions" and "inconsistent", resulting in "a gap in legal certainty for persons belonging to national minorities with regard to the enjoyment of their constitutionally guaranteed rights, such as in the areas of education, language or representation in elected bodies".[4] The European Commission against Racism and Intolerance of the Council of Europe has called for revisions to the Law to include provisions prohibiting direct and indirect racial discrimination.[5]

14. Law 5029–VI on Principles of the State Language Policy[6] was adopted on 3 June 2012, and constitutes, to date, the primary national legislation on national minorities' linguistic rights, and the use of minority languages in public life. Recognition of the status as "regional languages" is provided to 17 languages (Belorusian, Bulgarian, Crimean Tatar, Gagauz, German, Hungarian, Karaim, Krymchak, Modern Greek, Moldovan, Polish, Romani, Romanian, Russian, Rusyn, Slovak and Yiddish) in regions where the language is spoken by at least 10 per cent of the population (art. 7). That allows minority languages to be used in public administration, schools and courts alongside Ukrainian. Other provisions include the right to use minority languages in Parliament, the publication of the acts of the central State authorities, guarantees of freedom to receive media broadcasts from neighbouring countries in regional or minority languages, and free circulation of information in the written press in those languages. Despite moves to abolish the law in February 2014, these were vetoed by the interim President and, at the time of writing, the law remains in force while under review.

15. The 2001 Criminal Code of Ukraine criminalizes (art. 161) inciting national, racial or religious enmity and hatred, humiliation of national honour and dignity, insulting citizens' feelings with respect to their religious convictions, and any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, colour of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics. In 2009 amendments expanded

[4] Available from www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_Ukraine_en.pdf.

[5] Available from www.coe.int/t/dghl/monitoring/ecri/country-by-country/ukraine/UKR-CbC-IV-2012-006-ENG.pdf.

[6] Available from http://zakon2.rada.gov.ua/laws/anot/en/5029-17.

the scope of provisions and penalties for inciting racial, national and religious hatred, intolerance and discrimination.[7]

16. The legislative framework for political representation and the electoral system includes the Constitution, the Law on Political Parties (2001),[8] and the Law on Election of the People's Deputies (2011).[9] The 2012 Law on National Minorities (art. 9) contains a general provision regarding the representation of minorities among candidates for elections, which in principle guarantees minorities the right "to be elected or to be appointed to any position in the legislative, executive, judicial bodies, in the bodies of local or regional self-government".[10] However, no specific measures are provided to ensure the political participation of minorities. Some interviewees indicated that the current formulation of electoral districts and restrictions on minority parties should be reconsidered in order to improve the possibility for minority representatives to be elected to Parliament.

17. The Ukrainian Parliament Commissioner for Human Rights (the Ukrainian Ombudsperson[11]) is a constitutional, independent body created in December 1997. The Commissioner conducts legal proceedings and inspections and receives individual complaints. A 2010 special report of the Ukrainian Parliament Commissioner for Human Rights noted that a monitoring programme on the human rights status of national minorities had been initiated by the Ombudsman's office.[12] The European Commission against Racism and Intolerance recommended the establishment of a special representative of the Ombudsman with competence to deal with minority issues and racial discrimination.[13]

18. The Ministry of Culture stated that processes were under way to strengthen and expand institutional attention to minority issues, including proposals to establish new independent bodies with responsibility for minorities and inter-ethnic affairs. At the time of writing full details of those proposals were unavailable. The Special Rapporteur urges the authorities to put in place fully inclusive and participatory processes to establish such bodies and to provide assurances that they will be representative of minorities and have appropriate budgets and powers. She noted a general lack of awareness of minority rights amongst minorities and found that minorities mainly focused attention on intercommunal relationships, but often seemed to have limited knowledge of government obligations to protect and promote minority rights.

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[7] Available from www.coe.int/t/dghl/monitoring/ecri/country-by-country/ukraine/UKR-CbC-IV-2012-006-ENG.pdf.

[8] Available from http://zakon3.rada.gov.ua/laws/anot/2365-14.

[9] Available from www.epde.org/tl_files/EPDE/RESSOURCES/Electoral%20Legislation/Election%20Code%20of%20Ukraine_EN.pdf.

[10] Denys Kovryzhenko, *Regulation of Political Parties in Ukraine: The Current State and Direction of Reforms* (Agency for Legislative Initiatives, OSCE/ODIHR, 2010), p. 86, available from http://parlament.org.ua/upload/docs/Party%20Report%20Ukraine.pdf.

[11] See www.ombudsman.gov.ua/en/index.php?view=article&catid=38%3A2010-12-15-09-15-51&id=1145%3Alaw-of-ukraine-qon-the-ukrainian-parliament-commissioner-for-human-rightsq&format=pdf&option=com_content&Itemid=25.

[12] Available from www.ombudsman.gov.ua/en/images/stories/07022011/S_Dopovid_5_en.pdf, p.148.

[13] Ibid., p. 147.

IV. Minority rights in the context of political and social unrest in 2014

19. The situation of political and social unrest in some regions since February 2014, while having minority rights dimensions, is distinct from the general minority rights situation in Ukraine. Evidence suggests that the concerns of minorities, primarily over language and cultural rights, following the Euromaidan movement and the new Government taking power in February 2014, have been unduly escalated to create a situation of high tension and conflict. The presence and activities of far-right, ultranationalist "self-defence" groups and unidentified illegal armed actors have created anxiety and inflamed tensions in several locations. The Special Rapporteur does not consider that they represent or speak for most persons belonging to minorities or the majority of the Ukrainian people, and they should not be allowed to influence political, social or economic decisions via force or coercion.

20. The role of informal, unofficial and sometimes illegally armed groups, including in the events in the occupied Autonomous Republic of Crimea, and the unrest in eastern and southern Ukraine leading to the takeover and occupation of some buildings and towns have been prominent and highly destabilizing. It is essential to quickly re-establish the rule of law and the role of legitimate law enforcement actors and for all non-official groups to be disarmed and dispersed. Where any individuals involved in such groups are alleged to have committed or incited crimes, they must be prosecuted according to the law.

21. Several interviewees complained about worsening economic conditions, corruption, unemployment and the lack of good governance, which they considered to have contributed to grievances, political instability and a general distrust of politicians and political structures. It is essential to consider the wider economic and political dimension of the current situation and to implement measures to guarantee equality, social and economic rights and combat corruption and mismanagement of resources, as a means to increase trust in political leadership. The reality or perception of inequality in access to resources or distribution of resources, also involving geographical imbalances, as well as partisan politics and political patronage serve to undermine stability and create ethnic, linguistic, and geographic fault lines.

22. Ethnic Russians consulted in Donetsk, Kyiv and Odesa strongly expressed their views that the Euromaidan movement represented an explicit anti-Russian agenda with potential implications for their future rights and security. Some stated concern over the role of far-right and Ukrainian nationalist groups including the All-Ukrainian Union "Svoboda" (Freedom) and "Pravyi Sektor" (Right Sector), that have openly expressed anti-Russian and anti-Semitic sentiments and have nationalist agendas. It is evident that dialogue between the Government and ethnic-Russian groups in eastern and southern Ukraine is weak, while it is essential to build confidence that minority rights guarantees will be put in place and respected. The Special Rapporteur notes the poor election results of far-right and allegedly anti-Russian parties in the May 2014 elections.[14]

23. The Special Rapporteur was not provided with evidence that anti-Russian sentiment was widespread. There have been few incidents of discrimination, harassment or abuse of individuals or groups on the basis of their Russian identity in Kyiv or other localities. Russians and ethnic Ukrainians frequently stated that their relations remained good. Incidents of intercommunal violence were extremely rare or non-existent in most localities at the time of the Special Rapporteur's visit. However, in the current situation of conflict in

[14] Right Sector and Svoboda received just 0.9 per cent and 1.3 per cent of the vote, respectively.

some regions, it is necessary for all relevant actors, including the United Nations human rights monitoring team, to identify incidents or trends that indicate that violence or intimidation on the grounds of ethnicity, language or religion are increasing.

24. In April and May 2014, unrest in southern and eastern Ukraine escalated significantly with public buildings in localities including Donetsk, Kharkiv, Odesa and Slovyansk falling under the occupation of pro-Russian activists and violent incidents as Ukrainian authorities responded. Vaguely defined pro-Russian elements, including organized and illegally armed groups, often emerged in previously peaceful locations, sometimes with tragic consequences. Such incidents have the potential to further divide communities along ethnic and linguistic lines and create the conditions for the escalation of tensions.

25. On 11 May 2014, pro-Russian elements in separatist-controlled cities and towns in Donetsk and Luhansk regions held "referendums" asking "Do you support the act of State self-rule of the Donetsk/Luhansk People's Republic?" The vote was condemned as illegal by the Government and the international community and the Special Rapporteur supports that opinion. Reports suggest that many pro-unity supporters boycotted the action while pro-Russian supporters took part. The "referendums" lacked democratic legitimacy. They provided a distorted and unreliable account of public opinion and have served to further divide communities, increase tensions and destabilize the situation.

26. Some minority representatives emphasized their desire for greater political and cultural autonomy for some regions. Some representatives of Russian ethnicity maintained strongly nationalist feelings associated with their kin-State and historical claims over certain territories. Those who proclaimed a "People's Republic" in Donetsk and held "referendums" on the status of those regions stated their objective as separation from Ukraine. Regrettably, some have sought to achieve that by force.

27. The Special Rapporteur considers it important to monitor and robustly address any hate speech and incitement to violence that may fuel tensions, particularly in the context of the current crisis. The Organization for Security and Co-operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) Human Rights Assessment Mission in Ukraine found that "instances of hate speech towards ethnic and religious groups have been widespread" including in the Autonomous Republic of Crimea. It stated that "pro-Maidan activists have often been labelled '*banderovtsy*', 'Nazis' and 'fascists'. Supporting the territorial integrity and unity of Ukraine has been depicted as a sign of intolerance and nationalism".[15] The Mission report noted indications of growing anti-Tatar sentiment in the Autonomous Republic of Crimea. The Special Rapporteur concurs with the assessment of the Mission that there has been a trend that has seen political orientation conflated with ethnic background in eastern and southern Ukraine, where Ukrainian identity and symbols have been targeted for hate speech. Equally, any anti-Russian sentiments must be closely monitored.

28. The Special Rapporteur received reports stating that some Russian language media sources in Donetsk Oblast (region) and Ukrainian language media in the Autonomous Republic of Crimea have faced closure or broadcasting restrictions. The violent takeover of some broadcast media was reported in some localities under pro-Russian control.[16]

[15] See www.osce.org/odihr/118476?download=true.

[16] The June 2014 OHCHR report on the human rights situation in Ukraine states that "according to NGOs, freedom of media in the Donetsk region is severely curtailed, with Ukrainian TV channels switched off by the 'Donetsk People's Republic' and replaced by its own media programmes and Russian TV" (para. 232). Available from www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf.

Freedom of expression and media freedom should be guaranteed within the framework of the Constitution and international law, and respected in practice. All journalists should be free to work in safety and without threat of detention or violence. Nevertheless, evidence suggests that some media provided a distorted picture of events as they developed. Journalists and those who control media content have a responsibility to convey information accurately and objectively and to avoid propaganda or misinformation which may incite unrest or violence.

V. Issues of minority identity in Ukraine

29. Given the historical, geopolitical and national/cultural contexts that have shaped independent Ukraine, issues of identity are complex and emotive. Many of those consulted self-identified primarily according to their national or ethnic origins in a kin-State, while placing less emphasis on their Ukrainian identity and citizenship. Ukraine consequently has numerous large minority groups with strong historical, ethnic, cultural and linguistic connections to neighbouring countries and clear historical narratives regarding their communities, and their "belonging" in Ukraine. The Special Rapporteur also interviewed representatives of groups, including Ruthenians, who felt that they had not been recognized as minorities or indigenous peoples, which is how they identified themselves.

30. Many representatives of minorities emphasized their strong and enduring relations with their kin-States and the fact that no barriers existed to their establishing associations and maintaining social and cultural ties with those countries. They maintained cultural associations and events and minority media, as well as education in their mother tongue languages, sometimes with the support of kin-States. It is evident that Ukraine substantively upholds the right of minorities to establish their own associations and to maintain free and peaceful contacts including across frontiers; some interviewees stated that additional State support and funding were necessary.

31. Despite a strong feeling of minority identity, the majority of those consulted also emphasized their Ukrainian citizenship and their satisfaction with their treatment as minorities. Some interviewees suggested that stronger history and civic education components could be incorporated in school curricula in order to foster stronger Ukrainian national identity, mutual knowledge and understanding among different groups and to promote national unity.

32. The long history of settlement in the territory of Ukraine by different peoples has created overlapping and sometimes competitive identities. In the short time since independence, it has proved difficult to unite such diverse population groups and forge a sense of common Ukrainian identity.[17] Measures to promote national identity, culture and language, known as Ukrainianization, are legitimate and necessary to promote unity and economic, geographic and social mobility in a country with such diverse population groups. However, issues of cultural autonomy and the ability for minorities to influence decisions that affect them and the regions where they live were particularly prominent in consultations held and the Special Rapporteur encourages continued dialogue with minorities on those important matters.

33. Russian minority representatives acknowledged that, prior to the unrest, they did not face a repressive environment, widespread discrimination, exclusion, or violence based on their identity. They commonly reflected their greatest concerns as being in the fields of

[17] Minority Rights Group International, "Ukraine overview", available from www.minorityrights.org/5053/ukraine/ukraine-overview.html.

language and education and expressed their perception that the Euromaidan movement and pro-European Government would diminish the status of the Russian language and culture, reinforced by attempts to abolish the 2012 language law. Some ethnic Russians viewed the territory and people of Ukraine as historically and culturally Russian and strongly rejected the label "minority" being applied to them.

34. A population census is overdue and is planned for 2016. In the absence of accurate disaggregated data that reveal the ethnic, linguistic or religious composition of the population, there is often dangerous speculation and manipulation relating to the size of certain groups. An early and well-conducted census will provide reliable data on the ethnic and linguistic diversity of Ukraine, help to identify problems facing particular population groups, and enable the Government to understand and respond to the needs of different minorities.

VI. Language and cultural rights of minorities

35. Consultations revealed that the use of minority languages was highly important and emotive for many communities and an essential aspect of individual and community identity. National minorities clearly expressed their desire to maintain and protect their language rights and their ability to use their languages freely in private and public without discrimination. Most communities broadly expressed satisfaction that their children had the opportunity to learn and, in many cases, be taught in their mother-tongue language. Minority schools have been established and can function freely according to national law.

36. Calls to upgrade the status of Russian as a second official State language have been the subject of fierce disagreement between pro-Russians and those who advocate the primacy of Ukrainian. The Government considers that widespread knowledge and use of Ukrainian as the State language are important to Ukrainian national identity and unity and allow economic, geographical and social mobility while ensuring that those belonging to any ethnic or linguistic minority can participate fully in all aspects of society, including political life. Minority representatives frequently mentioned that the use of minority languages was a significant and valued feature of Ukrainian society and was not incompatible with the teaching and use of Ukrainian.

37. Reliable data concerning the number of users of minority languages and their geographic distribution are important to ensure that they comply fully with international standards for protection of the linguistic rights of minorities. The 2001 census revealed that, while 67.5 per cent described their native language as Ukrainian, 29.6 per cent recorded their native language as Russian.[18] Russian is widely spoken in the south, the east and the Autonomous Republic of Crimea, particularly the regions of Crimea (77.0 per cent), Donetsk (74.9 per cent), Luhansk (68.8 per cent), Zaporizhia (48.2 per cent) and Kharkiv (44.3 per cent), while in some other regions there is reportedly extensive bilingualism.

38. The passing of Law 5029–VI on the Principles of the State Language Policy in 2012 provided relatively extensive language rights and a low threshold of 10 per cent for recognition of regional language status, benefiting several minority language communities. However, it also raised concerns, including with regard to the promotion of the Ukrainian language, despite its status as the sole State language. The Law was criticized, including by the European Commission for Democracy through Law (Venice Commission), as being overly focused on the promotion of the status of the Russian language, potentially at the

[18] Available from http://2001.ukrcensus.gov.ua/d/mono_eng.pdf.

expense of Ukrainian.[19] While the Law remains in effect, the Government has announced that new language legislation is being drafted and will be subject to review by the Commission before being passed into law.

39. Nevertheless, steps in February 2014 to abolish the 2012 Law on the Principles of the State Language Policy, although vetoed in practice, created anxiety as minorities were concerned that new amendments would weaken their linguistic rights. Ethnic Russians spoke passionately about the decline in use of Russian in education, and their desire to see enhanced protection measures put in place. Some pointed out that there were relatively few Russian language schools in relation to the number of Russians who considered it their first language and described a gradual decline of the Russian language and cultural institutions.

40. Some ethnic Russians voiced their concerns regarding assimilation and the gradual erosion of elements of Russian culture and language. One representative stated: "There is not a repressive environment, but there is an attempt to push out the Russian culture part of me." Although according to Ministry of Education and Science statistics, in 2012/2013 Russian was the language of instruction and study in 1,256 schools providing general education, with 694,331 pupils being taught in Russian, ethnic Russian representatives noted a decline in education in the Russian language, notably in higher education, and that some Russian cultural centres had closed.

41. In practice, Russian remains widely used and understood. The Government states that 40 per cent of all printed media nationally are in Russian and up to 74 per cent of media broadcasts are in Russian in some regions. Government objectives of promoting Ukrainian as the national language may impact on the extent of Russian language use over time. Although according to the Government over 100 public associations represent the Russian minority, some ethnic Russians stated that civil society organizations and activities to promote Russian language and culture and to raise their issues and concerns were relatively weak.

42. The January 2014 report of the Committee of Experts on the European Charter for Regional or Minority Languages,[20] while noting some challenges for smaller linguistic minorities, stated: "In regard of Hungarian, Romanian and Russian the situation is by and large satisfactory and the right of speakers to receive education in these languages is more or less secured. The traditional models of teaching in Hungarian, Romanian and Russian have been preserved, although there seems to be a certain decline in the number of pupils enrolled." Concern was expressed that the "phasing out of higher education in Russian will constitute an obstacle to full access of Russian speakers to higher education". The report referred to an unmet demand from users of minority languages for support to establish and sustain cultural centres and a lack of long-term financing for such centres.

43. Civil society groups emphasized that any revised language law must fully conform with international standards and should not weaken the existing protection of the linguistic rights of minorities. Some expressed concern that a new language law might increase the threshold of 10 per cent for recognition of minority languages as "regional languages", restrict language rights in fields such as the media and education, and provide weak language rights protection for smaller and dispersed minority groups. Importantly, some minorities stated that they had not been consulted about the process of drafting a revised

[19] The Commission recommended the implementation of balanced policies in order to preserve Ukrainian as an integrative tool within society. See www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)047-e.

[20] Available from www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/UkraineECRML2_en.pdf.

law and were unaware of its status. Ethnic Russians expressed concern that allegedly anti-Russian officials of Svoboda would have a substantive role in formulating the new law.

VII. Situation of internally displaced persons and Crimean Tatars

44. The Special Rapporteur attempted to gain access to the Autonomous Republic of Crimea to assess the situation of minorities and to consult with the de facto authorities and minority and other community actors. Regrettably, she did not receive the required assurances to enable her to travel. The general human and minority rights situation in the Republic is of concern as administrative authority over the region has been illegally assumed by the Russian Federation following a disputed referendum on 16 March 2014.[21] On 27 March, the General Assembly underscored in its resolution 68/262 that that referendum had "no validity" and upheld the territorial integrity of Ukraine, including the Autonomous Republic of Crimea.

45. The 2001 census revealed that ethnic Russians made up 58.3 per cent of the total population in Crimea (1,180,400 people, although that percentage has declined from 65.6 per cent in 1989). Ukrainians accounted for 492,200 people or 24.3 per cent (a decline from 26.7 per cent in 1989), and 243,400 were Crimean Tatars (reflecting an increase from 1.9 per cent in 1989 to 12 per cent in 2001 owing to the significant return of Tatars to the peninsular). The number of returning Crimean Tatars reportedly peaked at 41,400 in 1991, and has been rapidly falling since.[22]

46. The Special Rapporteur interviewed several people who had left the Autonomous Republic of Crimea. Some mentioned uncertainty, social and political pressure and fear for their security and rights as the reasons for their decision to leave. They reported a tense and threatening environment, including via social media, against those who opposed or criticized the events surrounding the "referendum" and some stated that they knew about incidents of physical and verbal abuse. Some interviewees stressed their desire to remain Ukrainian and not to live in the Russian Federation. Some stated that Ukrainian language media in Crimea had been "switched off". In the current political circumstances, the human rights situation of ethnic Ukrainians who remain in the Autonomous Republic of Crimea as a de facto minority requires close monitoring; some reports suggest that there has been intimidation of those who openly oppose Russian control of the region or use the Ukrainian language in public.

47. Some individuals stated that concerns over maintaining Ukrainian citizenship and passports had been a contributing factor in their decision to leave. They expressed fears that those who wished to remain Ukrainian in the Autonomous Republic of Crimea would face discrimination as "foreigners" with implications for their economic, social and cultural rights and their right to participate in political life. Crimean residents were given one month, until 18 April 2014, to submit applications declaring that they did not wish to become Russian citizens. Some reported procedural difficulties that apparently made it difficult to meet the necessary requirements to keep their Ukrainian passports, including a shortage of registration offices, and suggested that those were deliberate barriers.

48. Concern exists regarding the implications of not accepting Russian citizenship and passports, including loss of property, restrictions on freedom of movement, provision of

[21] Pro-Russian authorities claimed that 97 per cent of voters supported the proposal to join the Russian Federation, a figure that was disputed by the Ukrainian authorities.

[22] Minority Rights Group International, "Ukraine overview", available from www.minorityrights.org/5053/ukraine/ukraine-overview.html.

State pensions, and the possible loss of government jobs. Civil servants and law enforcement officials are required under Russian law to formally relinquish their Ukrainian passports since those who occupy government jobs cannot hold dual citizenship.[23] Some expressed concern that Ukrainian citizens would feel compelled not to refuse Russian citizenship owing to the potential impact on their human rights. Equally, expectations of a hostile climate towards those with pro-Ukrainian views and those who wished to remain Ukrainian might encourage more people to leave.

49. The Special Rapporteur consulted leaders of the Crimean Tatar Mejlis (the self-governing body of Tatars). The return of Tatars, who are the indigenous inhabitants of the Autonomous Republic of Crimea, following their mass deportation in 1944, resulted in reported friction with the significant Russian population. Repatriation programmes were reportedly insufficiently funded and many returnees lacked adequate support. Issues of concern included high unemployment among Tatars and competition for land, despite their claims to land rights as indigenous people. There was no compensation provided for the properties that Tatars had lost and many, lacking access to land, occupied public lands. Consequently incidents of confrontation with other communities and the police have been recorded.

50. It is of great concern that many Crimean Tatars will refuse to accept Russian citizenship or authority which may render them even more vulnerable. Most Crimean Tatars boycotted the March 2014 referendum.[24] Sergey Aksyonov, who at the time was "governor" in the Autonomous Republic of Crimea, reportedly stated publically that Crimean Tatars should "leave if they don't like it". Some Crimean Tatar leaders who travelled out of the Republic have faced restrictions on re-entering, including the former head of the Mejlis, Mustafa Dzhemilev, who called for a boycott of the "referendum". On 22 April, he was banned from travelling to the Republic for five years, leading to protests and subsequently a warning from the de facto authorities that the Mejlis could be dissolved if it supported "extremist activities". On 5 July, a ban on entry was imposed on the current head of the Mejlis, Refat Chubarov, reportedly for "extremist statements". Charges were reportedly brought against 30 protestors and fines imposed. The authorities imposed a temporary ban on public protests in advance of the seventieth anniversary of the deportation of Crimean Tatars.

51. Some incidents have heightened anxiety within Tatar communities. On 3 March 2014 a Tatar labourer, Reshat Ametov, disappeared after reportedly being led away from a protest in Simferopol by unknown men in camouflage. His body was found days later in the mixed ethnic community of Belogorsk. Prior to the referendum of 16 March, Tatar communities reportedly had crosses marked on the walls or gates of their homes, which allegedly heightened anxiety regarding potential targeting. OHCHR stated that some Tatar representatives had mentioned concerns over unidentified uniformed men claiming rights on Tatar properties and land and reports of plans to relocate some communities.[25]

52. At the time of drafting, the Office of the United Nations High Commissioner for Refugees (UNHCR) reported over 10,000 verified IDPs in 24 regions as of 20 May 2014, the majority having left the Autonomous Republic of Crimea, with numbers continuing to

[23] EUDO Observatory on Citizenship, "The aftermath of annexation: Russia and Ukraine adopt conflicting rules for changing citizenship of Crimean residents" (11 April 2014), available from http://eudo-citizenship.eu/news/citizenship-news/1113-the-aftermath-of-annexation-russia-and-ukraine-adopt-conflicting-rules-for-changing-citizenship-of-crimean-residents.

[24] OHCHR was informed by representatives of Crimean Tatars that no more than 1,000 out of a population of 290,000–300,000 participated in the 16 March referendum.

[25] June 2014 OHCHR report on the human rights situation in Ukraine (see note 16 above).

rise.[26] The Government has no registration system for IDPs on national or ethnic lines that would allow for a full breakdown according to identity. Estimates suggest that many are Crimean Tatar (80 per cent in western Ukraine; 20 per cent in the Kyiv region); however there are reports of an increased registration of ethnic Ukrainians, ethnically mixed families, ethnic Russians, refugees, asylum seekers and foreigners married to Ukrainian citizens.[27] The true number may exceed that provided, given that many people may have found accommodation with relatives and communities without registering with organizations that provide support. According to UNHCR, factors triggering movement include increased security concerns and personal threats.

53. Efforts to address the needs of IDPs and protect the rights of those who remain in the Autonomous Republic of Crimea and prevent further displacement should conform with the Guiding Principles on Internal Displacement. UNHCR reported the priority concerns of IDPs as: maintaining contacts in the Autonomous Republic of Crimea; freedom to move and communicate between the Republic and the mainland; assistance with shelter and employment; simplified procedures for obtaining identity and residence documents to enjoy social and economic rights on the mainland; continuity of social payments; and assistance with property sales, transfer of funds and personal belongings. The Special Rapporteur welcomed efforts to support IDPs and witnessed solidarity across various communities manifested in voluntary services and contributions. However, some reports suggested that IDPs had experienced difficulties gaining access to financial support from the State.

54. Some Crimean Tatar representatives indicated that, historically, their rights had not been fully recognized and protected by any authority in the Autonomous Republic of Crimea. The Government mentioned that, following the events in the Republic resulting in the "referendum", in March 2014 the Verkhovna Rada had passed a resolution guaranteeing the rights of the Crimean Tatar people as a part of the State of Ukraine (No. 1140–VII of 20 March). According to the resolution, Ukraine guarantees to preserve and develop "the ethnic, cultural, linguistic and religious uniqueness of the Crimean Tatar people, as indigenous people and of all national minorities of Ukraine". It acknowledges the Mejlis of the Crimean Tatar people as a competent authority and requires urgent submission of draft laws and regulatory legal acts confirming the status of the Crimean Tatar people as indigenous people.

55. According to General Assembly resolution 68/262 on the territorial integrity of Ukraine, the Russian Federation has no legal jurisdiction over the Autonomous Republic of Crimea or its populations. Nevertheless, it is to be noted that on 21 April 2014, following its occupation of the Republic, the Russian Federation published a decree on measures to rehabilitate Armenian, Bulgarian, Greek, Crimean Tatar and German populations and State support for their revival and development. The Special Rapporteur notes that the full spectrum of human rights of minorities must be respected, protected and promoted without discrimination by the de facto authorities even in situations of territorial dispute or occupation.

56. In view of recent political and social change and the activities of armed militias, the Special Rapporteur recommends that the United Nations human rights monitoring mission should be allowed unfettered access to the Autonomous Republic of Crimea at the earliest opportunity. It should engage with both the de facto authorities and diverse civil society and community actors to ensure that human rights standards, including minority rights, are upheld in practice.

[26] See http://unhcr.org.ua/attachments/article/971/IDP.pdf and www.unhcr.org/537b24536.html.

[27] From mid-April 2014, UNHCR noticed movement of people away from eastern Ukraine as tensions increased in the regions.

VIII. Situation of religious minorities

57. Ukraine has a wide range of religions, belief groups and religious freedoms and the rights of religious minorities are protected in practice. Nevertheless, given the climate of political and social unease, it is particularly necessary for the authorities to guard against any human rights violations, including acts of violence, intimidation, threat or abuse targeted at individuals or groups based on their religion. Some incidents of concern have been reported in the context of the tense social and political environment since February 2014.

58. Jewish representatives reflected that they were well integrated, enjoyed their rights as a religious minority and that anti-Semitism, discrimination and violent incidents were rare. They generally expressed satisfaction at the extent of their minority rights protection. However, some incidents were reported in the context of the unrest that had put Jewish communities on alert. In February, the Giymat Rosa Synagogue in Zaporizhia, near Kyiv was firebombed. In early April 2014, a Holocaust memorial in Odesa was vandalized with Nazi graffiti. On 19 April, the Nikolayev Synagogue was firebombed causing minor damage. Representatives expressed concern about adequate protection measures. One leader stated: "No proper police are in place; ordinary people are carrying arms." Some anti-Semitic graffiti was also reported in the Autonomous Republic of Crimea.

59. Of concern to the Jewish community was the distribution in Donetsk by men wearing balaclavas of leaflets calling on Jews to register with the pro-Russians, pay a tax, or leave. The leaflets bore a stamp reportedly of the self-proclaimed "People's Republic of Donetsk", although it declared the leaflets to be a hoax. It remains unclear who was behind the leaflet. One leader of the Jewish community mentioned an incident in which neo-Nazi graffiti, allegedly signed by the Right Sector, had been painted on the walls of a synagogue in Odesa. Right Sector representatives denied involvement and reportedly helped remove the graffiti. A Jewish leader stated: "Politicians are playing the 'Jewish card'" and that the incidents were intended to inflame tensions and concerns amongst Jewish communities for political ends.

60. While incidents remain rare, they nevertheless indicate a potential rise in manifestations of anti-Semitism, which must be monitored closely. The lack of implementation of the rule of law in some localities provides an environment in which far-right groups have undoubtedly increased their activities and such anti-Semitic incidents may become more pronounced. Such incidents have created anxiety and should be investigated as crimes aggravated by hatred. Anti-Semitism must be acknowledged by the Government and measures should be taken to prosecute according to the law any person or group alleged to have committed or incited anti-Semitic acts.

61. Senior representatives of the Ukrainian Orthodox Church (Moscow Patriarchate) expressed concerns over alleged reports from church members of rising animosity against them, searching of properties, and the questioning of a church leader. They stated that there had been calls for Russian churches to be destroyed and Russian priests to be killed. They mentioned calls for the two most important monasteries to be transferred to the Kyiv Patriarchate and threats, allegedly by the Right Sector, to take over the cathedral unless it was transferred to the Kyiv Patriarchate. They reported cases of intimidation and persecution, including the case of a priest who had fled to Luhansk after having been interrogated by the authorities.

62. In the Autonomous Republic of Crimea, there have been news reports of representatives of the Ukrainian Orthodox Church claiming that Russian priests with armed supporters had threatened to confiscate churches. Some representatives of the Ukrainian Catholic Church reportedly left Crimea following alleged threats of arrest or property

seizure and intimidation. One priest was allegedly detained and beaten in March 2014 and a number of priests and parishioners have reportedly left for areas under Ukrainian control. Some Tatar representatives expressed concern, as members of the Muslim minority, over the extent to which their rights to freedom of religion, expression and assembly would be protected. According to UNHCR, some observant Muslims (mainly Tatar) and evangelical Christians mentioned fear of religious persecution as a reason for leaving the Autonomous Republic of Crimea.

IX. Situation of the Roma

63. The Special Rapporteur was made aware of ongoing concerns with regard to the situation of Roma communities in Ukraine. She visited a Roma settlement and consulted widely with Roma representatives. Economic and social marginalization, as well as problems with registration and identity documents, were widely reported by Roma representatives. The Government's Strategy on the Protection and Integration of Roma in Ukraine until 2020 as well as the National Action Plan on Roma Inclusion are welcomed and have been drafted with the participation of some Roma organizations. However Roma representatives expressed their concern over their lack of participation in the formulation and monitoring of the Strategy and stated that policies were often inadequately funded and poorly implemented in practice.

64. In the context of the tense political situation in March and April 2014, there have been reports of attacks on some Roma communities by armed perpetrators. Despite comments from some Roma that they had previously had good relations in the locality, such incidents were clearly causing anxiety in Roma communities. The European Roma Rights Centre stated that: "It is evident in the current ongoing political instability in Ukraine that some elements are attempting to target Roma, or to mark Roma as scapegoats".[28] In the current context of tension and with the reported presence of a number of far-right and extreme nationalist groups in different localities, threats and attacks against Roma communities must be taken extremely seriously, prevented and perpetrators prosecuted where any such acts take place.

65. On Friday 18 April 2014, there was an attack on a Roma settlement in the city of Slovyansk, which was largely under the control of pro-Russian illegally armed groups. According to residents, at about 10 p.m. a group of around 20 masked armed people burst into Roma houses, beat residents, including women and children, demanded gold and money and took possessions. The attackers were armed with automatic weapons and fired shots into some homes. On the same day, a Roma family house was reportedly set on fire in Cherkassy following tensions between Roma and non-Roma in the town.[29] The Special Rapporteur also received unconfirmed information about alleged threats against Roma by separatists in Donetsk and Luhansk at the end of May, which had reportedly resulted in 60 Roma families leaving to seek refuge with families in Lviv and in the Russian Federation. Such incidents should be immediately investigated.

66. One Roma resident of Slovyansk is reported as stating: "They say they are going to evict the Roma from here. And we don't sleep in our houses, because we are afraid someone will come."[30] On 29 April 2014, a Roma man was shot and seriously injured in Slovyansk while reportedly trying to defend his home from attackers. Roma representatives

[28] See www.errc.org/article/joint-statement-on-violence-against-roma-in-ukraine/4278.

[29] Ibid.

[30] See www.upi.com/Top_News/World-News/2014/04/22/Ukrainian-Roma-attacked-and-robbed/5231398172543/.

stated that they had alerted authorities about such incidents and called for heightened security, including police patrols of Roma settlements, to protect Roma from further attacks. They urged the affected Roma communities to file complaints about violence or threats although they indicated that the Roma were fearful of doing so given the lack of trust in police forces in some locations.

67. The Special Rapporteur visited a Roma community on the outskirts of Kyiv. Over 100 people, including more than 60 children, were living on a rubbish tip in basic shelters of wood and tarpaulin. The community scavenged scrap from the site which they sold to local merchants. Community members described their situation, which included a shortage of food and drinking water, and poor sanitation, health and access to health care. None of the children were in school and they were clearly inadequately dressed for the low temperatures. The community members stated that they had travelled from Uzhgorod owing to the lack of work or income-generating opportunities there and in the hope of finding a better situation. The community needs urgent intervention to improve living conditions and ensure the health, well-being and access to education for their children.

X. Conclusions and recommendations

General comments

68. **Many persons belonging to minorities in Ukraine have strong, distinct historical, ethnic, religious and linguistic identities that they wish to maintain and express, as well as strong cultural, economic, social or linguistic connections with kin-States. Their historical and group narratives are frequently heavily influenced by those ties. Despite previous periods of political and social upheaval since independence, harmonious relations have endured between different population groups and equal treatment was described in most areas of life. Many minority representatives emphasized their minority status while asserting their desire to build their futures as equal citizens of Ukraine.**

69. **Ukraine is a relatively new independent State, following a long period of historical Russian linguistic and cultural hegemony. In the current context it should be recognized that a gradual decline in the influence and extent of a formerly dominant minority language and culture does not automatically indicate evidence of discrimination or human rights violations. However, while it is legitimate for the Government to foster Ukrainian national identity and language, that must be conducted in a manner which respects, protects and promotes the rights of minorities. Sensitivity must be exercised to ensure that no law, policy or programme has discriminatory intent or effect.**

70. **Ukraine has a legislative and policy framework and environment that are generally consistent with the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and that are generally conducive to the protection of minority rights, including their civil and political and economic, social and cultural rights.**

71. **As in many States, the infrastructure for minority rights protection requires strengthening and development and complaints by minorities must be addressed appropriately. That should be achieved in full consultation with minorities. It is essential that any revisions to existing legislation and policy, as well as newly adopted laws, including relating to the status and use of minority languages, fully conform with international standards relating to equality, non-discrimination and minority rights.**

72. Any revised language law must be carefully considered and sensitively addressed to ensure that it fully conforms with international standards for the protection of the linguistic rights of minorities, while equally not undermining the knowledge and use of Ukrainian. It should not weaken standards previously established in the 2012 Law on the Principles of the State Language Policy. Steps must be taken to ensure wide and meaningful consultation, so that the law meets, to the fullest extent, the rights and expectations of the highly diverse and distinct linguistic communities of Ukraine.

Minority rights in the context of political and social unrest since February 2014

73. While recognizing the concerns of minorities, the Special Rapporteur considers that the current human and minority rights situation and the civil and political, economic, social and cultural conditions experienced by minorities cannot justify any violent actions or incitement and support of those actions by any party, national or international. The majority of the population of Ukraine, irrespective of national origin, ethnicity or language, wishes for a peaceful and united Ukraine, rich in its ethnic and linguistic diversity and confident in its future security and stability.

74. Developments in early 2014 have created an environment of uncertainty and distrust that may create fractures along national, ethnic and linguistic lines and which threaten peaceful coexistence if not quickly resolved. In some localities, tension has spilled over into conflict. Such tensions must be diffused as a matter of urgency. The radical nationalist objectives of a limited number of individuals or groups should not be allowed to dictate the future of Ukraine. Protection of human rights and minorities relies on the rule of law, which must be quickly re-established and upheld in all locations.

75. Good and inclusive governance is essential for the effective management of diversity. The current crisis, although framed by some as an inter-ethnic dispute between pro-Ukrainian and pro-Russian factions, has been partially caused by wider political and economic factors that must be recognized and addressed in order to avoid further ethnic, regional and political polarization. A historic good governance deficit, widespread corruption and mismanagement of resources have contributed to a lack of trust in political institutions and actors and significantly contributed to instability.

76. The situation of minority communities in the Autonomous Republic of Crimea, including Crimean Tatars, ethnic Ukrainians and other potentially vulnerable groups, should be monitored closely. The United Nations human rights monitoring mission and other international monitors should be allowed unfettered access to the Republic at the earliest opportunity. They should engage with both de facto authorities and diverse civil society and community actors to assess the extent to which human rights standards, including minority rights, are being upheld in practice.

77. The Special Rapporteur notes that, even in situations of territorial dispute or occupation, the full spectrum of human rights of minorities must be respected, protected and promoted without discrimination by the de facto authorities.

78. Those displaced from the Autonomous Republic of Crimea and other locations should be provided with all necessary short, medium and long-term support. Mechanisms of possible return to their homes, compensation for loss of property, or restitution of property and land should be considered. All relevant authorities must take measures to reduce or prevent further displacement, including through

implementation of human and minority rights standards. The possibility for IDPs to return voluntarily to their places of origin with assurances for their security should remain a key objective.

79. It is essential to begin a process of national dialogue with the objective of understanding the concerns and issues of all communities and ensuring that they are addressed appropriately and rapidly. Moderate voices must come to the fore. First and foremost, solutions to the current situation must come from the Ukrainian people themselves. That must be achieved through decision-making processes that are inclusive and which respect diversity and political structures that ensure the participation of all, including minorities.

80. Hate speech and incitement to hatred, hostility or violence targeted at any person or group must not be tolerated. Political and community leaders should be the first to condemn any such statements and to send a clear message that they will be treated as criminal acts, punishable by law. Those elements on any side engaging in or inciting violence or hatred must be prosecuted. They should have no role in shaping the future of Ukraine, nor should they be allowed to impose their will through the use of violence or force. All non-official and illegally armed groups should be disarmed and disbanded.

81. Freedom of expression, assembly and the right to protest peacefully must be protected even in times of political unrest and must only be restricted under exceptional circumstances. All relevant authorities must uphold those rights for all. Violent protest, the forced or armed occupation of public buildings or territories, the formation of armed militia groups and activities to intimidate, threaten or coerce are not legitimate in a democratic society and should be addressed according to the law and international standards.

82. The Special Rapporteur notes that all journalists should be free to conduct their work in safety and without threat of detention or violence and that the freedom of the media must be protected. Censorship of media should be used only as a last resort and any restrictions on the media and freedom of expression must be legitimate, proportionate and in conformity with international standards. Nevertheless, the Special Rapporteur is deeply concerned over media coverage that was frequently cited as misrepresenting the situation and serving to fuel tensions. Governments and media outlets have a responsibility to convey information accurately and objectively and to avoid any propaganda or misinformation which may incite unrest or violence.

83. The rights of religious minorities are protected in practice. However, given the climate of political and social unease, it is particularly necessary for the authorities to guard against any human rights violations, including against Crimean Tatars and members of Jewish communities. Acts of anti-Semitism, hate speech, violence, intimidation, threat or abuse targeted at individuals or groups based on their religion or belief must not be tolerated. All relevant authorities have an obligation to act swiftly to protect all religious groups in all localities, their places of worship, monuments and burial sites, particularly during periods of heightened tension, and to prosecute the perpetrators of violations against them.

84. The Special Rapporteur was struck by the many actors who have demonstrated national unity, solidarity and dialogue across different population groups to ensure a peaceful resolution to the crisis. Different faith and community groups have reached across religious and ethnic divides to offer support and assistance to those affected by the current situation, including those who have been displaced, and some of those with different political views have sought reconciliation. Political, religious and community

leaders are urged to use their influence to promote dialogue and encourage peaceful solutions to tensions.

Strengthening minority rights protection

85. **The Special Rapporteur considers that additional measures are required to strengthen minority rights protection. Considering the great diversity of population groups and the sensitivity of minority issues in the independent, post-Soviet era, institutional attention to minority issues is currently insufficient and has been downgraded in recent years. Mechanisms to register complaints and seek solutions are currently insufficient. At the time of the Special Rapporteur's visit, there were only six staff members within the Ministry of Culture with direct responsibility for minority issues. The Government must recognize the wider scope of minority rights that includes but goes beyond cultural issues, and ensure appropriate ministerial-level attention to minority issues.**

86. **The Special Rapporteur welcomes Government assurances that measures to strengthen institutional attention to minority issues are being developed. She recommends the establishment of a consultative and advisory body on minority issues with frequent and regular sessions, empowered to consider a wide range of matters of relevance to minorities, including problems of minority languages and education, religious affairs, and measures to address practically and prevent ethnic tensions from emerging. A dedicated Ombudsperson or similar structure mandated to address minority issues and receive complaints from minorities should also be considered.**

87. **A key pillar of minority rights is full and equal participation in public life, including political participation at the national, regional and local levels. Full access to democratic structures is critical for minorities to voice their concerns and to achieve meaningful solutions to their issues. Measures are necessary to strengthen the political participation o. .ninorities and guarantee their full involvement in decision-making bodies.**

88. **Policies to guarantee representation of minorities in Parliament include reserved seats or the redrawing of electoral districts to allow compact minority communities to elect their own representatives, and should be considered. Measures to increase political and cultural autonomy for some localities with large minority populations may be considered, where appropriate and in full consultation with all communities affected. The Special Rapporteur urges consideration of the recommendations of the Forum on Minority Issues which addressed minorities and effective political participation during its second session.**[31]

89. **In many countries, autonomous arrangements have been established and are appropriate taking into account specific circumstances, including where a national minority forms a high percentage of the population in a region. However, the nature and extent of that autonomy should be established in conformity with national law and international standards and through democratic, legal and consultative mechanisms and constructive dialogue which takes fully into account the views of minorities and all affected communities, including ethnic Ukrainians who might constitute a minority in affected regions.**

90. **Political parties and actors have a responsibility to all citizens and are accountable to all, irrespective of their national, ethnic, religious and linguistic**

[31] Available from www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session2.aspx.

identity. The Government and all political parties must uphold the highest standards with regard to the banning of statements and political platforms that promote racism, xenophobia or hate speech, or which are intended to incite ethnic, religious or other forms of hatred or intolerance. Any such actions should be prosecuted according to the law. As a confidence-building measure, all political parties should clearly state their commitment to minority rights protection and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

91. Educational curricula should reflect the diversity of Ukraine and enable students to learn about their own origins, cultures and religions, but also those of others, in a positive way that recognizes the contributions of all groups to society. Minority and mother-tongue schools, while legitimately maintaining minority languages and cultures, should also be required to provide education on the wider ethnic, national, social and religious make-up of society. The national curriculum should include education on active citizenship.

92. The Government should take additional measures, including providing financial and institutional support, for minorities to establish cultural and advocacy associations and maintain and enhance their activities. While there are now an increasing number of civil society organizations, further strengthening of civil society is needed so that minorities can enhance cultural activities as well as jointly formulate and convey important messages and establish and maintain dialogue with various authorities.

93. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (art. 5) calls for programmes of cooperation and assistance among States with due regard for the legitimate interests of minorities. Article 6 requires States to cooperate on questions relating to minorities in order to promote mutual understanding and confidence. Under article 7, States should cooperate to promote respect for the rights set forth in the Declaration. States with large diaspora communities are urged to take all possible steps to promote reconciliation and to defuse tensions where they exist. They must avoid actions that undermine confidence or incite, fuel or support violent or separatist movements on the part of minorities.

94. There has been an apparent escalation of anti-Roma sentiment and of incidents of violence and intimidation directed towards Roma in the context of the 2014 political unrest. All relevant authorities should ensure adequate protection of Roma communities and that any incidents of violence and intimidation are fully and speedily investigated and perpetrators prosecuted. Authorities should ensure that current and ongoing political instability is not used by any party as an opportunity to attack or intimidate Roma or forcefully remove them.

95. In the medium to long term, more robust responses from the Government are required to address Roma exclusion, marginalization and poverty. Measures should include an institutional, policy and programme framework, created with the full participation of Roma, that is adequately financed and politically supported to tackle the long-term challenges that many Roma experience.

96. The most recent census was conducted in 2001. The absence of accurate demographic and socioeconomic data constitutes a serious challenge to ensuring protection of minority rights. Accurate data will reveal the current picture of national, ethnic, religious and linguistic groups and provide key socioeconomic information, including in relation to such issues as language and identity. Such data, including reliable data on the number of users of minority languages and their geographic

distribution, should facilitate development of policy and programme measures to improve the situation of minorities.

97. **Census questions should allow open and multiple responses that enable respondents to self-identify according to their national, ethnic, religious and linguistic affiliation, including multiple identities. Ensuring accurate data for the most marginalized groups, such as Roma, is essential and should be facilitated through outreach and information for communities and training of census collection staff.**